



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA

MEMORANDUM



Date: February 24, 2011
To: Thomas W. Bonfield, Durham City Manager
Through: Keith Chadwell, Deputy City Manager
From: Steven L. Medlin, AICP, City-County Planning Director
Subject: Presentation on Proposed Text Amendment to the Unified Development Ordinance - Tree Protection (TC1000003)

Summary. In the summer of 2008, the Joint City-County Planning Committee (JCCPC) established a Steering Committee for the Environmental Enhancements to the Unified Development Ordinance (EEUDO) project. The Steering Committee recommended changes to the Unified Development Ordinance in June 2009 on four environmental topics: sedimentation and erosion control, water quality, tree protection and preservation, and site preparation. Tree Protection is the third installment of these proposed Unified Development Ordinance (UDO) text amendments.

The elements of this proposed text amendment include the following:

- Expand tree coverage requirements to the Urban Tier;
- Allow for smaller existing and replacement trees that have a greater chance of survival;
- Reduce the incentive to remove existing stands of trees;
- Eliminate loopholes that allow for tree coverage to be credited in areas that trees cannot grow; and
- Redefine specimen trees and incentivize their protection.

Recommendation. Staff is bringing this item to Council's attention for review and comment only at this time, per Council's request. Staff plans to bring this item to public hearing and for Council's consideration at its March 21, 2011 meeting.

Background. In the summer of 2008, the JCCPC established a Steering Committee for the EEUDO project. This Steering Committee is made up of developers, neighborhood leaders, and environmental activists, and is co-chaired by Commissioner Reckhow and Councilperson Woodard. This Steering Committee met monthly to provide input and recommendations regarding improvements to environmental regulations in the UDO. These improvements focused on four areas: sedimentation and erosion control, water quality and stream buffers, tree protection and preservation, and site preparation. The Steering Committee released its recommendations in May of 2009, and the JCCPC directed staff to begin work on implementation of those recommendations in June of 2009. This proposed text amendment on tree protection is the third installment of proposed changes from the EEUDO recommendations.

Issues. The proposed text amendment on tree protection addresses the following recommendations of the Steering Committee:

Expand the tree coverage requirement to the Urban Tier.

Currently, the UDO only requires tree coverage on new development in the Suburban tier. The proposed text amendment would expand this coverage to the Urban Tier, but at a significantly lower ratio than is currently required in the Suburban Tier. The lower ratio is warranted because of the more compact nature of development in the Urban Tier. The three percent requirement that is recommended in this text amendment is approximately half of the five to six percent open space requirement for the Urban Tier, allowing for other open space to be usable.

Allow tree coverage credit for smaller existing and replacement trees. Allow greater flexibility in the dimensions of tree protection areas.

Under the existing UDO requirements, most trees of less than two inches in diameter at breast height (dbh) do not count towards preserved tree coverage credit. In addition, under current rules, preserved tree coverage areas must be at least 25 feet wide in order to count for credit. Because developers cannot get credit for them towards their tree coverage requirements, smaller trees and stands of trees less than 25 feet in width are often cut down and removed rather than preserved. This is counterproductive because preserved trees have a greater chance of survival than do planted (replacement) trees. In addition, preserving trees provides habitat for other flora and fauna. This proposed text amendment allows for one inch dbh trees to count towards tree coverage requirements, and lowers the minimum width of a preserved tree coverage area to 13 feet. Allowing for greater flexibility in minimum tree size and preserved tree coverage area should lead to more existing trees being saved. An earlier draft of this proposed amendment that was brought before the Durham Planning Commission reduced the required root protection zone from 80 to 75 percent. At the request of the Planning Commission, that proposed change has been removed.

Modify the uses allowed within tree coverage areas.

The UDO currently allows for areas reserved for utilities and stormwater facilities to count towards tree coverage requirements, even though trees do not generally grow within those easements. This proposed text amendment removes that allowance. In addition, this amendment would allow for amenities and trails to be placed within tree coverage areas. Paved trails would have to be part of the adopted system in the *Durham Trails and Greenways Plan* and could be no wider than 16 feet; unpaved trails and amenity areas (such as picnic tables and benches) could be constructed provided that no tree greater than eight inches in width is removed.

Specify the requirements of the land disturbance tree survey.

The purpose of a land disturbance tree survey is to document the existing tree coverage prior to development activities so that appropriate protection measures may be employed and appropriate penalties applied should tree protection areas be violated. The existing land disturbance tree survey language requires a tree survey within 30 feet of land disturbance and in all protected areas (floodplain, stream buffer, e.g.), even if those areas are not near the area of disturbance. This provision requires an additional cost for development, but no practical effect or benefit can be demonstrated. The proposed text amendment would redefine the land disturbance tree survey to only require the survey when and where the limits of disturbance are within 30 feet of a preserved tree coverage area or other protected area.

Redefine specimen trees and incentivize their protection.

Paragraph 8.3.3C.2 of the current UDO defines specimen trees as “all trees other than trees of the *Pinus* genus greater than 18 inches dbh. Specimen trees of the *Pinus* genus shall only be considered significant and required to be shown on tree surveys in the Rural Tier.” Though this definition captures some significant canopy trees, many species will never grow to this size. By broadening the definition of a specimen tree, a broader mix of species can be documented and preserved.

The proposed text amendment redefines specimen trees as the following:

- Evergreen canopy trees 18 inches dbh or greater;
- Deciduous canopy trees 12 inches dbh or greater; and
- Understory trees eight inches dbh or greater.

Under the proposed text amendment, a specimen tree survey would no longer be required, as specimen trees under the current ordinance are not required to be protected unless included in a tree preservation area. However, this proposal would allow for any protected specimen tree outside of a required protected area (stream buffer, floodplain, i.e.) to be credited at one-and-one-half times for tree coverage. A survey would be required and the trees identified in a way that is verifiable in order to receive this additional credit. The requirement to preserve specimen trees in project boundary buffers as described in paragraph 9.4.5E would remain.

Alternatives.

The City Council may direct staff to forward the proposed amendment in its current state for consideration, or alter, delay, or halt proceedings on the proposed amendment.

Staff Contacts.

Aaron Cain, AICP, Acting Planning Supervisor, 560-4137x28226,
aaron.cain@durhamnc.gov

Anne Kramer, Planner, 560-4137x28271, anne.kramer@durhamnc.gov

Julia Mullen, Planner, 560-4137x28255, julia.mullen@durhamnc.gov

Attachments

Attachment A, An Ordinance to Amend Provisions of the Unified Development
Ordinance Regulating Riparian Buffers, Mark-Up Copy

Attachment B, An Ordinance to Amend Provisions of the Unified Development
Ordinance Regulating Riparian Buffers, Clean Copy

Attachment C, Durham City-County Planning Commission Written Comments